

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

ELIZABETH JENKINS,

Plaintiff,

v.

**CIVIL ACTION NO. 3:08-CV-118
(BAILEY)**

**HAZELTON FEDERAL PRISON,
FEDERAL BUREAU OF PRISONS,
WARDEN DRIVER,**

Defendants.

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Opinion/Report and Recommendation of United States Magistrate Judge John S. Kaull. By Standing Order this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R & R on June 1, 2009 [Doc. 22]. In that filing, the magistrate judge recommended that this Court dismiss the plaintiff's Complaint [Doc. 1] without prejudice.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

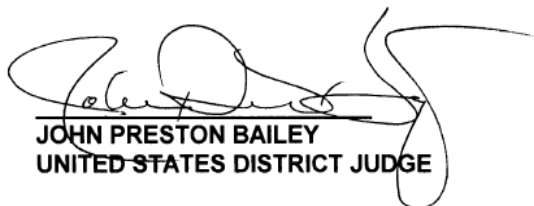
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R & R were due within ten (10) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket indicates that the R&R was mailed to the plaintiff by certified mail on June 1, 2009. On June 18, 2009, that mail was returned as undeliverable. On June 30, 2009, the R&R was remailed to the plaintiff. Again, on July 9, 2009, the R&R was returned as undeliverable. This Court notes that parties have a duty to inform the Court of any change of address. Apparently, the plaintiff has failed to do so. As such, no objections have been filed. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Opinion/Report and Recommendation [Doc. 22]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **DISMISSES without prejudice** the plaintiff's Complaint **[Doc. 1]** and **ORDERS** that this action be **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: July 29, 2009.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE